

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MERCK SHARP & DOHME B.V. and
ORGANON USA INC.,

Plaintiffs,

v.

ASPIRO PHARMA LIMITED,

Defendant.

Civil Action No. 20-3112 (CCC) (MF)

Document Electronically Filed

STIPULATION AND ORDER DISMISSING
'527 PATENT CLAIMS AND DEFENSES

WHEREAS by a letter dated February 18, 2020, Defendant Aspiro Pharma Limited (“Aspiro”) notified Plaintiffs Merck Sharp & Dohme B.V. and Organon USA Inc. (together, “Merck”) that Aspiro had submitted to the FDA Abbreviated New Drug Application No. 214337 seeking approval to commercially manufacture, use, sell, offer for sale, and/or import a generic version of sugammadex injection, 200 mg/2 mL and 500 mg/5 mL.

WHEREAS Merck in response brought this action against Aspiro, alleging infringement of U.S. Patent Nos. RE44,733 (the “’733 patent”) and 6,949,527 (the “’527 patent”);

WHEREAS the ’527 patent expired on January 27, 2021;

IT IS HEREBY STIPULATED BETWEEN THE PARTIES THAT:

1. Count II of Merck’s Complaint (ECF No. 1), including without limitation all claims, defenses, and counterclaims concerning the ’527 patent, are dismissed.
2. All proceedings concerning the ’733 patent shall continue and are not affected by this Order.

Dated: April 30, 2021

s/ William P. Deni, Jr.
William P. Deni, Jr.
Charles H. Chevalier
J. Brugh Lower
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Tel: (973) 596-4500
Fax: (973) 596-0545
wdeni@gibbonslaw.com
cchevalier@gibbonslaw.com
jlower@gibbonslaw.com

Attorneys for Plaintiffs
Merck Sharp & Dohme B.V.
and Organon USA Inc.

Of Counsel:

John J. Normile (*pro hac vice*)
Sarah A. Geers
Lisamarie LoGiudice (*pro hac vice*)
JONES DAY
250 Vesey Street
New York, NY 10281
(212) 326-3939

Andrea Weiss Jeffries (*pro hac vice*)
JONES DAY
555 S. Flower Street
Los Angeles, CA 90071
(213) 243-2176

Anthony M. Insogna
JONES DAY
4655 Executive Drive, Suite 1500
San Diego, CA 92121-3134
(858) 314-1130

Jihong Lou (*pro hac vice*)
JONES DAY
51 Louisiana Avenue, NW
Washington, DC 20001-2113
(202) 879-3631

Dated: April 30, 2021

s/ Dmitry V. Shelhoff
Dmitry V. Shelhoff
PERGAMENT & CEPEDA LLP
89 Headquarters Plaza
North Tower, 14th Floor
Morristown, NJ 07960
Tel: (973) 998-7722
dshelhoff@pergamentcepeda.com

Attorneys for Defendant
Aspiro Pharma Limited

Shayna Cook (*pro hac vice*)
Alan Littmann (*pro hac vice*)
Doug Winnard (*pro hac vice*)
**GOLDMAN ISMAIL TOMASELLI
BRENNAN & BAUM LLP**
200 S. Wacker Drive, 22nd Floor
Chicago, IL 60606
(312) 681-6000

SO ORDERED.

Date: May 6, 2021



Hon. Claire C. Cecchi, U.S.D.J.